

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SERGEY V. ANDREYEV,

Plaintiff,
v.

OPINION and ORDER

09-cv-651-slc

BRIAN KJORLIE, ROBERT KIEFER, MATTHEW EARLL, CHRISTOPHER KUHL, KIMBERLY STILWELL, CURTIS DEBOER, ROBERT ZANON, HOLLEY DORNFIELD, JOSH BRANDSMA, MICHAEL SCHLIESMAN, DAVID WEGNER, SUSAN ROBERTS, ALEX AGNEW, SUSAN BARTON, JUDY WEISS(n/k/a Judy Belike), and JACOB PARKER,

Defendants.

On December 27, 2009, I granted summary judgment in favor of defendants because plaintiff failed to adduce evidence that would allow a reasonable jury to infer that defendants were deliberately indifferent to his serious medical need. Now plaintiff has filed a notice of appeal. Because the notice is not accompanied by the \$455 fee for filing his appeal, I construe plaintiff's notice to include a request for leave to proceed on appeal in forma pauperis.

Plaintiff's request for leave to proceed in forma pauperis on appeal is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether plaintiff's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Plaintiff does not have three strikes against him, and I do not intend to certify that his appeal is not taken in good faith.

The only other hurdle to plaintiff's proceeding with his appeal in forma pauperis is the requirement that he pay an initial partial payment of the filing fee that has been calculated from a certified copy of his trust fund account statement for the six-month period immediately

preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2). Plaintiff has not submitted the necessary trust fund account statement. Until he does so, I cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Accordingly, IT IS ORDERED that plaintiff may have until February 4, 2011, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately July 14, 2010 to approximately January 14, 2011. If, by February 4, 2011, plaintiff fails to submit the required trust account statement or show cause for his failure to do so, then I will deny his request for leave to proceed in forma pauperis on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 18th day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge